

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Calvin LeSure,

Case No. 21-cv-368 (MJD/JFD)

Plaintiff,

v.

ORDER

Robert R. Cima, in his individual capacity,

Defendant.

This matter is before the Court on the Order and Report and Recommendation by United States Magistrate Judge John F. Docherty dated November 15, 2021 recommending the Court dismiss Plaintiff's claims of medical negligence under Minnesota state law and deliberate indifference under federal law. (Doc. No. 59.) Plaintiff did not object to the Report and Recommendation.

Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, and in consideration of the applicable law, the Court will adopt the Report and Recommendation in its entirety.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The Report and Recommendation (Doc. No. 59) is **ADOPTED**; and
2. Defendant Robert R. Cima's Motion to Dismiss and for Summary Judgment (Doc. No. 31) is **GRANTED** as follows:
 - a. The medical negligence claim is **DISMISSED with prejudice** pursuant to Minnesota Statute § 145.682, subdivision 6, or alternatively under Federal Rule of Civil Procedure 56; and
 - b. The deliberate indifference claim is **DISMISSED with prejudice** pursuant to Federal Rule of Civil Procedure 56.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 31, 2022

s/Michael J. Davis

MICHAEL J. DAVIS

United States District Court